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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
North Carolina Utilities Commission)
Petition for Additional Delegated)
Authority to Implement Number)
Optimization Measures)
)
Implementation of the Local Competition)
Provisions of the Telecommunications)
Act of 1996)

NSD File No. L-99-97

CC Docket No. 96-98

NORTH CAROLINA UTILITIES COMMISSION'S REPLY COMMENTS

North Carolina Utilities Commission

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INTRODUCTION

The North Carolina Utilities Commission (NCUC) hereby files these reply comments in response to comments filed regarding the NCUC's Petition for Additional Delegated Authority to Implement Number Optimization Measures (Petition). In the Petition, the NCUC sought authority to conduct thousands-block number pooling trials, to implement sequential numbering assignment, to implement certain administrative

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conservation measures including NXX code allocation standards (or "fill rates") and NXX code reclamation, to maintain NXX code rationing for six months after implementation of a new area code, to address claims for NXX codes outside of the rationing process, and to enforce number utilization reporting requirements. The authority sought by the NCUC is essentially the same as that which the Federal Communications Commission (FCC) has granted to ten other states in recent months.

DISCUSSION

The primary argument against the NCUC's requested authority appears to be commenters' concern that granting such authority will interfere with, or be inconsistent with, a national approach to number conservation and optimization.¹ The NCUC is well aware of the FCC's ongoing efforts to develop a national framework for number optimization, and is highly supportive of those efforts. It has participated in the ongoing number optimization rulemaking, CC Docket No. 99-200, as a commenter. The NCUC recognizes the value of a consistent national scheme for numbering optimization.

As the NCUC stated in its Petition, it believes that its efforts could readily be conformed to national standards, rules, or guidelines, once they are in place. The delegated authority sought would not significantly hamper national consistency in the area of number resource optimization. Staff of the NCUC participates in regular conference calls with other state commissions that are addressing these issues, and the NCUC would make every effort to make its number resource optimization measures as consistent as possible with those that are occurring in other states. The concern regarding national consistency should not hinder those states that want to move forward in this area now, and spare their citizens the burdens and inconveniences associated with further unnecessary area code relief. This is particularly true when the state commissions are willing to conform their efforts to a national plan when it is possible to do so. Again, the authority sought by the NCUC is consistent with that which has been granted by the FCC to other states. The NCUC simply seeks the same opportunity to take more aggressive action in the area of number optimization in the current absence of any national plan.

The NCUC will now respond to more specific comments regarding the particular number optimization measures for which it seeks additional delegated authority.

Thousands-block Number Pooling. BellSouth argues that, to maximize the

¹ See Comments of the United States Telephone Association (USTA Comments) at 2-4; Comments of AT&T Corporation (AT&T Comments) at 3-4; Comments of the Personal Communications Industry Association (PCIA Comments) at 1-2; Comments of the Cellular Telecommunications Industry Association (CTIA Comments) at 2-5; Comments of BellSouth Corporation (BellSouth Comments) at 7.

effectiveness of number conservation and ensure uniformity, the FCC should immediately develop national rules and guidelines. If the FCC continues to grant interim authority to state commissions, BellSouth contends that the FCC should: (1) require states to comply with national number pooling implementation standards, including the use of Number Portability Administration Center software Release 3.0 (as opposed to Release 1.4); and (2) develop a national cost recovery framework for number pooling as it did for local number portability (LNP).² USTA also argues that the FCC should investigate the problems connected with software Release 1.4 and should not, in the meantime, delegate any authority that would permit any state commission to require its further deployment.³

The NCUC recognizes that software Release 3.0 has been adopted by the industry as the national standard for number pooling, and further recognizes the benefits of efficient data representation (EDR) associated with Release 3.0 that release 1.4 lacks. However, the NCUC also recognizes that Release 3.0 will not be available for carrier testing until June 2000, and that not all carriers will be able to initiate testing at that time. The NCUC requests that, consistent with the delegations of authority that other states have received, no specification be made regarding which software release may be used in a pooling trial. The NCUC will certainly take factors such as timing and the costs of transitioning from one software to another into account when structuring any number pooling trial. Regarding cost recovery, the NCUC certainly supports the FCC's developing a national cost recovery framework for number pooling as it did for LNP. If, however, the NCUC receives interim delegated authority before such a national framework is developed, it will address cost recovery for number pooling within North Carolina on an interim basis.

USTA states that a careful analysis needs to be conducted which would show if the potential benefits of thousands-block pooling are great enough to justify its implementation.⁴ In its Petition, the NCUC made clear that it would only order a number pooling trial if analysis of the specific circumstances in a particular area code indicated that number pooling could significantly extend the life of the area code.⁵ The NCUC takes this opportunity to reiterate that point.

Sequential Number Assignment. USTA states that it supports maintaining the greatest number of clean thousand blocks as possible through assignments on a

² BellSouth Comments at 2.

³ USTA Comments at 4.

⁴ *Id.*

⁵ Petition at 4.

“thousand block by thousand block basis.” USTA also asserts that there is no need to order sequential thousand block assignments. USTA states that many states have excellent guidelines in place that accomplish the desired result, which should be used as a guide to develop national guidelines for a structure of assignments on a thousand block by thousand block level. USTA argues that those states’ requirements are effective and supports them as a basis for achieving the desired results. USTA further asserts that there is a need for some flexibility in the assignment process so that carriers can meet certain customer needs. USTA “presumes” that service providers are voluntarily complying with the state guidelines, but recommends that the FCC affirm that federal requirements are necessary.⁶

The NCUC is not sure if USTA is arguing for or against its request. North Carolina currently does not have any “guidelines” in place that accomplish the goal of maintaining a greater number of clean thousand blocks to facilitate number pooling. The NCUC, as stated in its Petition, recognizes that any sequential numbering assignment regime requires flexibility so that a carrier can seek relief from the requirements if the requirements were causing the carrier to be unable to meet specific customer needs. The NCUC would certainly consult with other state commissions that have implemented sequential numbering assignment to learn what solutions work best, and to be as consistent with those other sequential numbering assignment requirements as possible.⁷ The NCUC would support federal requirements in this area in conjunction with a national plan for number pooling, and believes there may be a role for state commissions in enforcement of such requirements. The request for delegated authority, however, is for the NCUC to develop a sequential numbering assignment plan in the absence of any uniform national plan.

NXX Code Reclamation. BellSouth argues that the FCC should strengthen the ability of the North American Numbering Plan Administrator (NANPA) to reclaim telephone numbers.⁸ BellSouth contends that authority to reclaim numbering resources that have been obtained in violation of the Central Office Code Assignment Guidelines is already vested with the NANPA and should remain there.⁹ BellSouth urges the FCC to make it more clear that NANPA is expected to strictly enforce the industry reclamation guidelines, and direct that the NANPA do a more effective job of monitoring

⁶ USTA Comments at 5.

⁷ Petition at 4.

⁸ BellSouth Comments at 2.

⁹ *Id.* at 13.

number utilization, providing data, and reclaiming underutilized or unused codes.¹⁰ USTA also argues that the FCC should clarify the responsibility and authority of NANPA. USTA notes that the FCC has not authorized other state commissions to reclaim NXX codes themselves, but to direct the NANPA to reclaim codes. USTA states that if, in the first instance, the NANPA was confident of its authority and its obligations it would reclaim NXX codes that it knew were being used in a manner inconsistent with industry guidelines. USTA claims that, if the FCC were to validate NANPA's authority to do so and require that the NANPA must consider evidence provided by regulatory commissions when making such decisions, no additional state authority would be necessary.¹¹

The NCUC agrees that NANPA needs more enforcement authority to ensure that numbers are allocated and used in an efficient manner, and took that position in its Comments filed in CC Docket No. 99-200. Specifically, the NCUC stated that, in those instances where enforcement involves an objective or quantitative evaluation and would not compromise the NANPA's neutrality, the NANPA should perform enforcement activities in the first instance. In those instances where enforcement actions are more appropriately handled by a regulatory authority in the first instance, the state commissions should handle enforcement for violations that are local in nature.¹² This issue is really separate, however, from whether or not the NCUC should be empowered to order the NANPA to reclaim NXX codes (as other state commissions have been) *before* the FCC speaks to these issues in the larger context of the number optimization rulemaking proceeding. The NCUC advocates that it be allowed to take these steps to ensure more efficient allocation of numbering resources, and, again, will conform its efforts to the national plan when there is a national plan.

Collection of Utilization Data. Regarding the collection of carrier number utilization data, BellSouth asserts that the NANPA should be responsible for obtaining and managing telephone number utilization data, and argues that separate state reporting requirements are unnecessary to accomplish the goal of providing states with useful utilization data. BellSouth states that a more appropriate solution would be to allow the NANPA to collect the data and distribute it to states on an aggregated basis when necessary to enable states to address area code relief.¹³

CTIA argues that NCUC enforcement of number utilization reporting

¹⁰ *Id.* at 14.

¹¹ USTA Comments at 6-7.

¹² NCUC Comments in CC Docket 99-200 (NCUC Comments) at 8.

¹³ BellSouth Comments at 14-15.

requirements is not necessary. CTIA states that the Industry Numbering Committee (INC) is drafting language revising the Central Office Code Assignment Guidelines to require service providers to submit a Central Office Code Utilization Survey (COCUS) before receiving NXX codes. Once this change is effected, NANPA will not assign numbering resources unless a carrier has a COCUS on file. This provides sufficient incentive to provide the COCUS information, in CTIA's view.¹⁴

USTA contends that the long term national structure being developed provides for reporting of sensitive details of numbering resources to the NANPA, and will contain conditions for release of such information to state commissions. Therefore, USTA objects to granting state commissions authority to require direct reporting of usage information to state commissions.¹⁵

The NCUC has supported the codification of FCC rules implementing a mandatory reporting scheme that is more extensive, detailed, and uniform. The NCUC has supported NANPA being the point of collection for number utilization and forecast data. It is the NCUC's position that state commissions should be allowed access to *all* data collected at the national level, provided that appropriate confidentiality protections are in place. The NCUC also believes that state commissions should have the flexibility to require additional information from carriers if circumstances warrant.¹⁶

In its petition for additional delegated authority, the NCUC seeks authority to require North Carolina carriers to submit a completed COCUS to the NANPA, and to direct the NANPA to suspend the assignment of NXX codes to North Carolina carriers that do not comply with the directive. Again, this action would help ensure that there is accurate utilization and forecast information available on North Carolina carriers, in the absence of the improved, mandatory system for data reporting and collection advocated by the NCUC. While the change to the INC guidelines noted by CTIA represents an improvement over the status quo, it is still not clear how aggressive NANPA can be in withholding resources without further action from the FCC. The NCUC does receive utilization information from carriers in North Carolina (and strongly believes that it does not need any additional authority from the FCC to do so), but only a small percentage of the carriers actually report their data, and the NCUC is, like all other state commissions, struggling with how best to ensure that accurate information is available. Giving the NCUC the requested authority would not hurt, and may help to achieve that goal.

¹⁴ CTIA Comments at 6-7.

¹⁵ USTA Comments at 7-8.

¹⁶ NCUC Comments at 6.

Fill Rates. BellSouth asserts that the use of fill rates is “flawed” and that the current “Months to Exhaust Worksheet” is a better way to evaluate a carrier’s need for additional numbering resources. BellSouth argues that a fill rate system does not take future telephone number demand into account, and does not take into account the special needs of customers.¹⁷ USTA also argues that the grant of authority to the NCUC to establish fill rates should be denied, because the establishment of fill rates is such a “difficult” issue.¹⁸ As the NCUC stated in its Petition, it will allow for flexibility in establishing fill rates, and applying them to carriers, and would guard against applying fill rates in a manner that could deprive customers of their choice of carriers from whom to purchase service. The NCUC will also consult and coordinate with other state commissions that have obtained authority to impose fill rates, and will make an effort to establish a fill rate regime that is not inconsistent with those imposed by other states.

Rationing. USTA asserts that the NCUC request to maintain rationing measures for six months after implementation of area code relief plans should be rejected because it is vague and lacks specificity.¹⁹ The FCC has noted that maintaining rationing for a brief period following implementation of a new area code provides “breathing room” for state commissions that have undergone the difficult process of implementing a new area code. The NCUC limits its request to area codes that undergo jeopardy rationing and are relieved in North Carolina.

Miscellaneous. AT&T argues that the FCC must make clear in any order delegating authority over numbering that a state may not refuse to implement needed NPA relief while it undergoes preparations for number conservation measures that it hopes may extend the life of area codes. In its Petition, the NCUC specifically stated that it is aware of the conditions the FCC has placed on delegations of number pooling authority to other state commissions, and is willing to abide by those conditions. Those conditions include taking steps to ensure that there is an area code relief plan that may be implemented if numbering resources in the area code at issue are in imminent danger of being exhausted.²⁰

CONCLUSION

The NCUC supports the FCC’s efforts to address the number resource exhaust problem at the national level, and looks forward to the FCC’s upcoming order in CC

¹⁷ BellSouth Comments at 15-17.

¹⁸ USTA Comments at 8.

¹⁹ USTA Comments at 7.

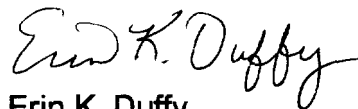
²⁰ Petition at 3.

Docket No. 99-200. The NCUC recognizes the value in having national standards and procedures for number optimization. However, the NCUC respectfully requests this additional delegated authority in the area of number optimization, consistent with that which has been granted to other state commissions, for the purpose of taking more action in the area of number resource allocation and assignment now. The NCUC wishes to, if possible, spare North Carolina citizens additional inconvenience, confusion, and expense caused by area code changes that really should be unnecessary. The NCUC believes that its efforts could readily be conformed to national standards, rules, or guidelines, once they are in place. The delegated authority sought would not significantly hamper national consistency in the area of number resource optimization.

Respectfully submitted,



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